

invention. Applicant has amended claim 7 to more particularly recite structural limitations.

The Examiner also rejected claims 1 and 2 under 35 U.S.C. 102(a) as being anticipated by Baumgartner. Applicant has amended claim 1 in order to overcome this and other rejections. However, it is noted that Baumgartner discloses a plurality of spherical flexible support members designed to fill a cavity such as an intervertebral disc. In such an application, even if the term "hydrogel" is used to describe the material from which these members are made, Applicant respectfully submits that these materials must not be bioabsorbable because they are intended to remain in place by replacing material which has been removed from the disc. If the support members were made of bioabsorbable material and eventually absorbed into the body, the cavity would again be established. There is no suggestion in this reference that the material of the disc surrounding the implanted spherical support members is able to regenerate itself in place of the support members. In any event, Applicant has amended the claim in other respects such that it is clearly distinguishable over Baumgartner and so that bioabsorbability is not an issue.

Claims 1 and 4 were also rejected under 35 U.S.C. 102(e) as being anticipated by Scheker. Applicant respectfully traverses this rejection.

First of all, the spherical structure in Scheker cannot be bioabsorbable; if it was the functionality of the Scheker prosthesis would, over time, be destroyed. Additionally, claim 1 as amended includes other features (e.g. rectangular recess, etc.) which make it distinguishable over Scheker.

Claims 1 and 3 were also rejected under 35 U.S.C. 102(e) as being anticipated by Tomatsu. Applicant respectfully traverses this rejection.

It is noted that, with the amendment of claim 1, claim 3 is now dependent from a claim incorporating features clearly distinguishable over Tomatsu. Claim 3 should, therefore, be allowable with claim 1.

Claims 7 through 13 were rejected under 35 U.S.C. 102(b) as being anticipated by Thein. Applicant respectfully traverses this rejection.

The invention claimed in claims 7-13 clearly describes an apparatus (claims 7 and 8) and method (claims 9-13) related to a secondary surgical implant for use with a primary surgical implant in a bone tunnel. Thein simply does not disclose the concept of a secondary surgical implant. In Thein, a ligament 3 is secured between two osseous bodies 1 and 2 by means of fixing elements 4. Each of the fixing elements has an internal conduit 7 through which the ends of the ligament 3 extend. However, the significant distinction between the claimed invention and Thein is that the ligament fixation in Thein is only by means of clamping means 8 by which the ligament is frictionally engaged in the internal conduit 7. Using the terminology of the subject invention, clamping means 8 is the primary surgical implant which secures a ligament within a bone tunnel. There is no secondary surgical implant disclosed or suggested in Thein. If the clamping means 8 loosens in any way, there is no secondary surgical implant which can then prevent the ligament graft from coming out of the internal conduit 7. This is clearly different than the claimed invention in which the claimed secondary surgical implant acts as a back up to reinforce the fixation provided by the primary surgical implant.

Applicant has made other minor amendments to the claims to improve their clarity. None of these amendments include new subject matter.

Claim 5 has been amended to independent form in order to overcome the Examiner's objection.

Applicant has added new claim 14 in order to properly claim subject matter disclosed in the application. No new matter is added.

In view of the above, Applicant believes the claims are allowable over the prior art.



Respectfully submitted,

By Gene Warzecha
Gene Warzecha, Reg.No. 28,919

Linvatec Corporation
11311 Concept Boulevard
Largo, FL 33773
727 399 5295

CERTIFICATE OF MAILING
37 C.F.R. 1.8

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as First Class Mail in an envelope addressed to:
Commissioner of Patents and Trademarks,
Washington, D.C. 20231, on the date below:

6/22/00 Janet P. Rissire
Date